

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

JASMINE BARNES,  
*Plaintiff,*

V.

BURLINGTON COAT FACTORY OF  
TEXAS, INC.

*Defendant.*

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CIVIL ACTION NO. 4:21-cv-8

**DEFENDANT BURLINGTON COAT FACTORY OF TEXAS, INC.'S  
NOTICE OF REMOVAL**

COMES NOW Defendant Burlington Coat Factory of Texas, Inc. (“Burlington”), pursuant to 28 U.S.C. §§ 1441 and 1446, and files this Notice of Removal of an action pending in the County Court at Law No. 2 in Denton County, Texas, Cause No. 2020-02890, and states as follows:

**PRELIMINARY STATEMENT**

1. This action belongs in the United States District Court for the Eastern District of Texas, Sherman Division, because all proper parties are of diverse citizenship and the amount in controversy exceeds \$75,000.00.

**PROCEDURAL HISTORY**

2. On or about November 23, 2020, Plaintiff Jasmine Barnes (“Plaintiff”) filed her Original Petition against Burlington Coat Factory of Texas, Inc. (“Burlington”) in County Court at Law No. 2 in Denton County, Texas. A true and correct copy of Plaintiff’s Original Petition is attached hereto as Exhibit C-1.

3. Plaintiff served Burlington Coat Factory of Texas, Inc., with citation on or about December 3, 2020 through C T Corporation Services Company, Burlington's registered agent.

4. The Defendants timely filed an answer<sup>1</sup> and jury demand<sup>2</sup> in state court on December 15, 2020.

5. Fewer than thirty days have elapsed since Plaintiff served Burlington with her Original Petition.

6. Pursuant to 28 U.S.C. § 1446 and Eastern District of Texas Local Rule 81, Burlington attaches to this Notice of Removal a true and correct copy of (1) a list of all parties in the case, their party type, and current status of the removed case; (2) a civil cover sheet; (3) a copy of the state court docket sheet<sup>3</sup>; (4) a copy of all pleadings that assert causes of action; all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this Court as required by 28 U.S.C. § 1446(a); (5) a complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number, and party or parties represented by that attorney; (6) a record of which parties have requested jury trial; and (7) the name and address of the Court from which the case was removed.

7. Written notice of the filing of this Notice of Removal is being filed in the County Court at Law No. 2, in Denton County, Texas, and provided to Plaintiff as required by the federal rules.

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<sup>1</sup> See Exhibit C-2.

<sup>2</sup> See Exhibit I.

<sup>3</sup> A certified copy of the State Court Docket Sheet was ordered. However, despite Burlington's efforts, it was not received by the time of this filing. Burlington will supplement with same if requested.

## GROUND FOR REMOVAL

### A. Diversity Jurisdiction Exists.

8. Removal to this Court is proper pursuant to 28 U.S.C. §§ 1441(a) and 1446 because this is a civil action over which the federal district courts have original jurisdiction. 28 U.S.C. § 1441(a) states that a civil case filed in state court may be removed to federal court if the case could have been originally brought in federal court.

9. This Court has original jurisdiction under 28 U.S.C. § 1332 by reason of diversity of citizenship. Pursuant to 28 U.S.C. § 1332(a), federal district courts have original jurisdiction of all civil actions between citizens of different states where the matter in controversy exceeds \$75,000.00, exclusive of interest and costs.

10. At the time this action was first filed, Plaintiff was, and remains, a citizen of the State of Texas. Burlington Coat Factory of Texas, Inc., was, and remains, a Florida For-Profit Corporation. Burlington Coat Factory of Texas, Inc.'s principal place of business is in Burlington, New Jersey. Thus, Burlington Coat Factory of Texas, Inc. is a citizen of Florida and New Jersey.

11. To establish diversity jurisdiction under 28 U.S.C. § 1332(a), the removing party must show that the amount in controversy exceeds \$75,000, exclusive of interests and costs.<sup>4</sup> In her Original Petition, Plaintiff claims damages between \$100,000 and \$250,000.<sup>5</sup> Therefore, the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

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<sup>4</sup> See *White v. FCI USA, Inc.*, 319 F.3d 672, 675 (5th Cir. 2003).

<sup>5</sup> Exhibit C-1, at ¶ 12.

B. Removal is Timely.

12. A notice of removal must be filed within thirty (30) days after a defendant is served with the state-court petition.<sup>6</sup> Burlington was served with Plaintiff's Original Petition on December 3, 2020.<sup>7</sup> Burlington files this Notice of Removal on January 4, 2020 within thirty days of the date of service. Therefore, removal is timely.

**CONCLUSION**

13. Burlington hereby removes this action to the United States District Court for the Eastern District of Texas. The parties are completely diverse and the amount in controversy exceeds \$75,000.

WHEREFORE, Defendant Burlington Coat Factory of Texas, Inc., hereby notices the removal of the above action now pending in County Court at Law No. 2, in Dennis County, Texas.

Respectfully submitted,

KANE RUSSELL COLEMAN LOGAN PC

By: /s/ Andrew J. Sarne

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ATTORNEYS FOR DEFENDANT BURLINGTON COAT  
FACTORY OF TEXAS, INC.

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<sup>6</sup> See 28 U.S.C. § 1446(b).

<sup>7</sup> Exhibit D.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been sent to all known counsel pursuant to the Texas Rules of Civil Procedure on this the 4<sup>th</sup> day of January 2021:

**Attorney for Plaintiff**

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*/s/ Andrew J. Sarne* \_\_\_\_\_

Andrew J. Sarne